

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION

ENERGERA INC.,

Plaintiff,

V.

AFD PETROLEUM (TEXAS) INC.,
ALASKA FUEL DISTRIBUTORS INC.
D/B/A AFD PETROLEUM, AFD
PETROLEUM LTD. and GLOBAL
ENGINEERING SOLUTIONS LIMITED,

Defendants.

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CASE NO.: 7:19-CV-00026-ADA

JURY TRIAL DEMANDED

CASE READINESS STATUS REPORT

Plaintiff ENERGERA INC. and Defendants AFD PETROLEUM (TEXAS) INC.,
ALASKA FUEL DISTRIBUTORS INC. D/B/A AFD PETROLEUM, AFD PETROLEUM LTD.
and GLOBAL ENGINEERING SOLUTIONS LIMITED hereby provide the following status
report:

FILING AND EXTENSIONS

Plaintiff's Corrected Second Amended Complaint ("Second Amended Complaint") was filed on October 26, 2021. There has been one extension for a total of 45 days.

RESPONSE TO THE COMPLAINT

On December 20, 2021, Defendants filed their respective Answers to Plaintiff's Corrected Second Amended Complaint (Dkt. 91-94), alleging affirmative defenses and reserving rights as to additional possible affirmative defenses and claims.

PENDING MOTIONS

There are no pending Motions.

RELATED CASES IN THIS JUDICIAL DISTRICT

There are no related cases in this District.

IPR, CBM, AND OTHER PGR FILINGS

There are no currently pending IPR, CBM, or other PGR filings.

On April 19, 2019, Defendants filed an *inter partes* review (“IPR”) of all the claims from U.S. Patent No. 10,029,906 (IPR2019-00995) that Plaintiff had asserted in its First Amended Complaint Dkt. 26 (claims 2, 8, 10, 18, 19, 28, 30, 32-34, 37-38, 40-42, 45, and 47). The Patent Trial and Appeal Board (“PTAB”) instituted the IPR, and the parties jointly agreed to a stay of the case pending the outcome of IPR2019-00995. During the IPR proceeding, Plaintiff cancelled claims 10, 18, and 47, and unconditionally and on a noncontingent basis surrendered the subject matter of all the other claims in the IPR proceeding, moving to amend them. The PTAB subsequently issued a Final Written Decision allowing the amended claims on October 15, 2020.

NUMBER OF ASSERTED PATENTS AND CLAIMS

Plaintiff has asserted infringement of U.S. Patent No. 10,029,906 and in its Second Amended Complaint, asserted infringement of claims 1, 5 and 14. (These are claims that Plaintiff did not assert in its First Amended Complaint and which were not in the IPR proceeding.)

Plaintiff has asserted infringement of U.S. Patent No. 9,346,662 and in its Amended Complaint asserted infringement of claims 1-2 and 7-11.

APPOINTMENT OF TECHNICAL ADVISER

Defendants believe a technical adviser needs to be appointed to the case to assist with claim construction or other technical issues. Plaintiff does not believe a technical adviser needs to be appointed to the case.

MEET AND CONFER STATUS

Plaintiff and Defendants have met and conferred. There are no other pre-*Markman* issues to raise at the CMC at this time.

Dated: December 30, 2021.

Respectfully submitted,

/s/ Corby R. Vowell
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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify that on December 30, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Corby R. Vowell